

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>T-M VACUUM PRODUCTS, INC.</b>	§	<b>CIVIL ACTION NO.</b>
<b>Plaintiff</b>	§	<b>09-00095</b>
	§	
<b>V</b>	§	<b>CIVIL</b>
	§	<b>JURY</b>
<b>JOHN B. BERRY, et ux</b>	§	
<b>Defendants</b>	§	

**DEFENDANTS' DESIGNATION OF EXPERT WITNESSES**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Defendants and files this Defendants' Designation of Expert Witnesses, and would show the Court the following:

I.

**Defendants designate the following expert witnesses to testify at the time of trial:**

1. Thomas G. Bousquet  
BousquetLaw, P.C.  
9225 Katy Freeway, Suite 103  
Houston, Texas 77024  
713-827-8000  
713-827-0096 fax

Will testify regarding the reasonable and necessary attorney's fees incurred by Defendants herein through the trial and any appeal, and the amounts thereof. His testimony regards the reasonable and necessary attorneys fees of Defendants among other things will based on \$425.00 for each hour expended in the preparation, filing, and trial and appeal of this case plus those items allowed by the Disciplinary Rules to be included in determining a reasonable and necessary fees. The final amount will be only known at the conclusion of the services. A resume is attached.

**Fact witnesses who may have expert opinions who are not retained by, employed by nor subject to the control of Defendantss**

2. The accountant who does or reviews Defendants's accounting and tax work. His opinions may be on proper use of funds by T.A.I.S.C.. and the potential income to Defendants from the transaction made the basis of this Agreement. They have or will have reviewed the financial information prepared by defendants and furnished to Plaintiff. They have or will form professional opinions as to the Defendants's damages. They have not completed any study enough to furnish opinions at this time No resume is available but will be supplemented as soon as received.

**Fact witnesses who may have expert opinions**

3. John B. Berry  
PO Box 22030  
Houston, Texas 77227-2030  
800-749-3905

Defendants. Has knowledge of all matters including the damages Defendants suffered when defendant breached the contract and the damages Defendants sustained from lost profit under the contract and the loss of benefits under the contract and. He is aware of how the offer was made to Defendants and how they accepted the offer and then how they tried to back out of the contract. He is aware of and testify as to Defendants's damages. He is aware of and can testify to the way he would have funded the transaction if Defendant had not breached the contract. He will testify as to his background and experience.

- 4 In addition, Defendants reserves the right to elicit expert testimony on Defendants's behalf from all experts designated or identified by Defendant and other parties to this lawsuit.
5. Defendants also reserves the right to supplement this designation further within the time limitations imposed by the court, written agreements among the parties, or by any future alterations by subsequent court order, or agreement among the parties pursuant to the rules of civil procedure, or the rules of evidence.
6. Defendants also reserves the right to withdraw the designation of any expert witness and to aver positively that such previously designated expert will not be called as an expert witness at trial and to re-designate the expert as a consulting expert. *Scott v. McInlhany*, 798 S.W.2d 556 (Tex. 1990).

7. Defendants also reserves the right to call undesignated expert witnesses in rebuttal, whose identities and testimony cannot be reasonably foreseen until all other parties to this suit have presented their evidence at trial. *Alvarado v. Farah Manufacturing Co.*, 830 S.W.2d 911 (Tex. 1992).
8. Defendants also reserves the right to elicit and use any expert testimony and law opinion testimony that would assist the jury in determining material issues of fact that would not violate the rules of civil procedure or the rules of civil evidence.
9. Defendants designates and may call to testify as adverse witnesses any and all expert witnesses designated by any other party, whether or not such party is still a party at the time of trial. See, *Ticor v. Lacy*, 803 S.W.2d 265 (Tex. 1991).
10. Defendants also reserves the right to supplement expert reports if and when additional information becomes available.

Respectfully submitted,

\_\_\_\_\_  
/s/ Thomas G. Bousquet  
THOMAS G. BOUSQUET  
9225 Katy Freeway, Suite 103  
Houston, Texas 77024  
Fed. Bar # 3285  
Bar Card No. 02717000  
713-827-8000  
713-827-0096 fax

BOUSQUETLAW, P.C.  
of counsel

ATTORNEY FOR DefendantsS

### **CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing instrument was duly served upon the following counsel of record by certified mail, return receipt requested or by hand delivery and by facsimile transmission as provided in the Federal Rules of Civil Procedure on this \_\_\_\_25th\_\_\_\_ day of \_\_\_\_September\_\_\_\_, 2009, and the original was promptly filed with the Clerk of the above Court, together with this proof of service.

H. Miles Cohn  
Sheiness, Scott, Grossman & Cohn  
1001 McKinney, Suite 1400  
Houston, TX 77002

\_\_\_\_/s/ Thomas G. Bousquet\_\_\_\_\_  
THOMAS G. BOUSQUET

THOMAS G. BOUSQUET  
BOUSQUET & DEVINE, P.C.  
9225 Katy Freeway, Suite 103  
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713-827-8000 tel  
713-827-0096 fax

Thomas G. Bousquet is 75 years old and is a life long resident of Houston, Texas. He continues practicing law in Houston where he has practiced law in excess of 50 years and in Brenham where he has opened a law and real estate office. He is a graduate of the University of Texas (B.A., 1956) and the University of Texas Law School (J.D., 1958). He has been licensed to practice law in Texas since April 24, 1958. He has been AV rated (highest rating) by Martindale-Hubbell Law Directory since 1969. He has been both Secretary and Vice President of the Houston Bar Association and Special Assistant Disciplinary Counsel to the Texas Commission for Lawyer Discipline. He was certified by the Texas Board of Legal Specialization in Civil Trial Law between 1979 and 2003 and in Family Law between 1975 and 2003. He was a member of the American Academy of Matrimonial Lawyers for twenty years. He is past President of the Texas Association of Certified Civil Trial Lawyers. He is a founding member and secretary of the National Academy of Legal Malpractice Attorneys. His practice over 50 years has included extensive civil trial, real estate, corporate and estate planning experience. He is admitted to practice before the U.S. District Court for the Southern District of Texas, the Fifth Circuit and the U.S. Supreme Court (1971). He has been a lecturer at several State Bar Association institutes and seminars at both the South Texas Law School and the Tulane University School of Law. He has had articles published in the Texas State Bar Journal, the magazine of the Family Law Section of the State Bar of Texas and in the National Law Office Economics and Management Journal. He has been quoted as an expert in Legal Malpractice in The

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National Law Journal, Texas Lawyer, Lawyer's Weekly, The New York Times and The Boston Globe. He is a member of the Christian Legal Society and is a Life Fellow of the Texas Bar Foundation.